

REMARKS

This is in response to the Official Action of March 3, 2004.

Reconsideration of the rejection is respectfully requested.

Claims 1-28 were rejected as being anticipated by U.S. Patent No. 6,568,547.

The Kretschmer et al. Patent No. 6,568,547 discloses a crane that has a counterweight on a support 15 at the rear thereof that telescopes into a box section 12. The support 15 moves linearly between inner and outer positions depending a good deal upon the pivotal position of a boom 5, and also the counterweights are supported on a cable from this boom.

It is respectfully submitted that the claims remaining in this case, as amended, clearly define over the Kretschmer reference, and also define over the other references that are in the case. The Rosset Patent No. 5,954,270 does show a pivotally mounted counterweight, but it does not render the amended claims obvious or unpatentable, it is respectfully submitted.

Claim 9 has been amended to include the features of a loader than has a support frame that has side members for mounting a boom, and the boom is operated with an actuator in a normal manner. Claim 9 incorporates original claim 13, and adds further features, and specifies that the positionable counterweight is pivotally mounted on the support frame about an upright axis along a side of the support frame. This mounting is believed in and of itself to distinguish from the Kretschmer et al. patent, as well as the Rosset patent, but further, the pivot axis is positioned with respect to a center of gravity of the loader so that the counterweight, which has first and second positions about the pivot axis, has a major portion thereof positioned on a forward side of the vertical plane passing through the center of gravity in a first pivotal position, and on

a rearward side of that plane in a second pivotal position. That feature, which provides for a swing of the counterweight to opposite sides of the center of gravity, is not believed shown, taught or suggested in either one of the references that are mentioned above, or any of the other references. In the Rosset patent, the counterweight appears to swing 90°, and does not pass on opposite sides of the center of gravity of the support for the outwardly extending boom. It would appear that it is to one side of the vertical plane that passes through the center of gravity, in both positions, and does not swing to be on opposite sides of the center of gravity plane.

Likewise, in the Kretschmer et al. reference, the counterweights slide in and out, but do not move to an opposite side of the center of gravity of the crane. That is the way it appears from the side view of the crane, where the counterweights stay to the rear of the tracks, and to the rear of the main platform. Movable counter weights are admittedly shown, but the mounting and positioning of the present device provides new and non obvious features.

This feature of moving the counterweight to opposite sides of the center of gravity is believed to be a unique feature particularly useful in small loaders, where the counterweight, as it extends forwardly of the center of gravity, aids in providing traction as well as providing counterweight for compaction, tamping or drilling forces, as outlined in the introductory portions of this specification. On the rearward side of the center of gravity, the counterweight is useful while lifting loads with the boom.

That positioning is not believed or taught in any of the references, nor is the construction, and therefore it is believed that claim 9 and its dependent claims are allowable.

Claim 14 has been amended to include the feature of the controller and linkages that will permit disengaging the tracks

from one side to the other, and the ability of the controller to operate cams that urge and maintain the brackets in predetermined positions so that the drive to the tracks can be controlled.

This, again, is totally lacking in any of the references, and it is believed therefore that claim 14, and dependent claims 17, 20 and 21 are allowable.

Claim 22 has not been amended, but it also includes the "at least one selectively positionable counterweight moveably mounted on the support frame", which is moveable with respect to a laterally extending vertical plane passing through the center of gravity of the loader to opposite sides of the plane for modifying the effect of the counterweight on the loading capabilities of the forward end of the loader boom. This is, again, similar to the features of claim 9, where the counterweight can be used for counter balancing a load to be lifted on the boom, or can be shifted to an opposite side of the vertical plane passing through the center of gravity to provide weight at the forward portion of the frame for tamping, compacting, and also for adding weight over the ground drive.

Thus, it is believed that claim 22 is allowable for the reasons set forth in connection with claim 9.

Method claim 27 has been amended to include the step of moving the counterweight to a first position forwardly of the upright pivot, and to a second position rearwardly of the pivot, so that it is selectively positioned forwardly of, and rearwardly of, the center of gravity of the apparatus.

These features of the method claim are a way of performing the movement of the counterweight to achieve the purposes outlined in connection with claim 9, and therefore it is believed that the two method claims 27 and 28 are allowable.

Favorable action is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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